'AMAL V. ḤADĪTH IN ISLAMIC LAW:
THE CASE OF SADL AL-YADAYN (HOLDING ONE'S HANDS BY ONE'S SIDES) WHEN DOING THE PRAYER*

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Abstract

Most Muslims today understand the term *sunna* to refer to the *sunna*, or normative practice, of the Prophet as contained in the standard collections of Prophetic *ḥadīth*. Because of the relatively late appearance of these collections, and the frequent anomalies between their contents and those of early *fiqh* sources, many Western scholars have concluded that the concept of the "*sunna* of the Prophet" is a secondary development that is not reflected in the earliest stages of Islamic law. The issue of *sadl al-yadayn*, where a substantial body of Sunnī—and all non-Sunnī—opinion holds to a judgment based on *'amal* ("practice") in overt rejection of numerous Prophetic *ḥadīth*s, suggests that we have to reinstate the traditional picture of an early concept of the *sunna* of the Prophet, but as defined by *'amal* rather than *ḥadīth*.

Introduction

IN HIS *ORIGINS*, Schacht, following Margoliouth, put forward the idea that *sunna* as a principle of law meant originally the ideal or normative usage of the community and that only later, particularly as a result of the efforts of al-Shāfiʿī (d. 204/820), did it acquire the restricted meaning of precedents set by the Prophet.[1] Because of what Schacht considered to be a constant divergence between the "old" concept of *sunna* or "living tradition" of the individual schools of law, and the later concept of *sunna* as the "*sunna* of the Prophet" embodied exclusively in authentic *ḥadīth*s, he concluded that these *ḥadīth*s were, generally-speaking, later fabrications used as a device to give authority to the doctrines of the individual schools.[2] For this reason he saw the concern for the *sunna* of the Prophet that is evident in the concern for Prophetic *ḥadīth* as a later development within Islamic law.

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[1] See Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950), 58.

[2] See *Origins*, 80.

On the Muslim side, all Sunnī Muslims—as their name implies—purport to derive their *fiqh* from the *sunna* or normative practice of the Prophet, after the primary source of the Qurʾān. However, there has never been agreement among them on how to define this *sunna*, for although the Ḥanafīs, Shāfiʿīs and Ḥanbalīs effectively equate *sunna* with *ḥadīth*, this has never been the position of the traditional Mālikīs, for whom *ʿamal*, that is, the inherited practice of the people of Madina, is seen as a more trustworthy source of *sunna*, and therefore higher than *ḥadīth*. Thus it is that from the Mālikī point of view there are not only many *ḥadīth*s which do not represent *sunna*, but also many aspects of *sunna* which are not recorded in *ḥadīth*, which is to say not only that *ḥadīth* may or may not record *sunna* but also that *sunna* may or may not be recorded by *ḥadīth*. Since the Mālikī school (*madhhab*) represents the earliest and most conservative form of Islamic law, namely, that of Madina in the first and second centuries AH, an understanding of this attitude of theirs to *sunna*, *ḥadīth* and *ʿamal* in contrast to that of the later schools is crucial to an understanding of the nature and development of early Islamic law.

In this article I investigate one specific instance of *ʿamal* being preferred to *ḥadīth* by Mālik and the Madinans, namely, the issue of *sadl* v. *qabḍ*, i.e. whether the hands should be held freely by one's sides while doing the prayer, or whether they should be held in front of one with the right hand clasping the left, either above or below the navel. This is a particularly interesting example in that it shows a concerted body of later Sunnī opinion against the Mālikīs on this point, but agreement with them on the part of certain earlier Sunnī authorities and all the non-Sunnī sects. Within the Sunnī camp what we find is a basic disagreement on how to define *sunna*, with the simple claim of the Mālikīs being that the non-textual source of *ʿamal* is a better representative of *sunna* than the textual source of authentic *ḥadīth*. The corollary of this claim is that, contrary to the views of both Schacht and al-Shāfiʿī and their followers among modern Western and traditional Muslim scholars respectively, there is a concept of the *sunna* of the Prophet that is accepted by (certain) traditional Muslim scholars that does not necessarily have anything to do with the collections of *ḥadīth* that are later assumed to be the sole repositories of "the *sunna*."

Furthermore, although this detail of *sadl al-yadayn* comes under the heading of the more private zone of acts of worship (*ʿibādāt*) rather than the more public one of interpersonal dealings (*muʿāmalāt*), it nevertheless illustrates a principle that applies throughout Islamic law.

Indeed, it is precisely about the juxtaposition of theory or, we might
say, a theoretical approach (the interpretation of what was recorded as
texts, or *ḥadīth*) and practice (what was transmitted as action, or
ʿamal), always an area of tension throughout the history of Islam. It
helps us understand what *sunna* originally meant in the discourse of the
Muslims and illustrates how an essential change in the theoretical
definition of the word led to an essential change in the development and
practical expression of the law.

The case of sadl al-yadayn

In his *Muwaṭṭaʾ*, Mālik (d. 179/795) records the following two texts—
understood to be Prophetic *ḥadīth*s—in a chapter entitled "Putting One
Hand Over the Other When Doing the Prayer":

> Yaḥyā told me, from Mālik, that ʿAbd al-Karīm b. Abī al-Mukhāriq al-
> Baṣrī said: "Among the words of prophecy (*min kalām al-nubuwwa*)
> are: If you do not feel ashamed, do as you wish; putting the hands one
> over the other when doing the prayer, that is, putting the right over the
> left; and hurrying to break the fast and delaying the pre-dawn meal."
>
> He also told me, from Mālik, from Abū Ḥāzim b. Dīnār, that Sahl b.
> Saʿd said: "People used to be told that a man should put his right hand
> over his left arm when doing the prayer." Abū Ḥāzim added, "As far as
> I know, he traces that back [i.e. to the Prophet]."[3]

In the *Mudawwana*, on the other hand, Ibn al-Qāsim (d. 191/806)
relates that Mālik said, about putting the right hand over the left when
doing the prayer: "I do not know of this practice as far as obligatory
prayers are concerned (*lā aʿrifu dhālika fī al-farīḍa*), but there is no
harm in someone doing it in voluntary prayers (*nawāfil*), if he has been
standing for a long time, in order to make things easier for himself."
Saḥnūn, the transmitter of the *Mudawwana*, then records a *ḥadīth* from
Ibn Wahb, from Sufyān al-Thawrī, from "more than one (*ghayr
wāḥid*)" of the Companions of the Prophet, that they had seen the
Prophet doing the prayer having put his right hand over his left.[4]

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[3] Mālik b. Anas, *al-Muwaṭṭaʾ*, transmission of Yaḥyā b. Yaḥyā al-Laythī,
(Cairo: Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī, 1370/1951) [herinafter *Muw.*], vol. i,
133.

[4] *Al-Mudawwana al-kubrā*, opinions of Mālik, Ibn al-Qāsim and others,
compiled by Saḥnūn (Cairo: Maṭbaʿat al-Saʿāda, 1323-24 [1905-06]) [hereinafter
Mud.], vol. i, 74; cf. Ibn Rushd [al-Jadd], *al-Bayān waʾl-taḥṣīl*, ed. Muḥammad
Ḥajjī (Beirut: Dār al-Gharb al-Islāmī, 1404-07/1984-87), vol. xviii, 71. There are
four other views recorded from Mālik, namely: (i) the transmission of the Egyptian
Ashhab (d. 204/819) and the Madinan Ibn Nāfiʿ (d. 186/802) in the *ʿUtbiyya*, that
both *sadl* and *qabḍ* are equally acceptable in both obligatory and voluntary prayers

If we look at the classical collections of *fiqh*, we find that most of the Mālikīs go by the judgment in the *Mudawwana*, i.e. that *sadl* is preferable (although there are some Mālikīs who do not hold this view),[5] but that the other surviving Sunnī *madhhabs*—the Ḥanafīs, Shāfiʿīs and Ḥanbalīs—are agreed on *qabḍ*.[6] The non-Sunnī *madhhabs*, however—the Ithnā ʿAsharī Shīʿa, the Zaydīs, the Ismāʿīlīs and the Ibāḍīs (Khawārij)—are all agreed, along with the majority of the Mālikīs, on *sadl*.[7]

It is this seeming discrepancy in the Sunnī position and the implications behind it that are the subject of this essay.

(see Ibn Rushd, *Bayān*, vol. i, 394-95, vol. xviii, 71; *Mud.* vol. i, 74, n. 1; Muḥammad ʿĀbid b. al-Shaykh Ḥusayn, *al-Qawl al-faṣl fī taʾyīd sunnat al-sadl* (Makka: Maṭbaʿat al-Taraqqī al-Mājidiyya, 1329 [1911]), 23, quoting al-Bannānī's *Ḥāshiya*); (ii) the transmission from the Iraqi followers of Mālik that *qabḍ* should not be done in either (see al-Bājī, *al-Muntaqā, sharḥ al-Muwaṭṭaʾ* (Cairo: Maṭbaʿat al-Saʿāda, 1331 [1913]), vol. i, 281; Muḥammad ʿĀbid, *Qawl*, 19, 21, quoting al-Ābbī's *Sharḥ* on Muslim and Khalīl's *Tawḍīḥ*); (iii) a transmission specifically from the Basrans among the Iraqis that *sadl* is recommended for obligatory prayers and *qabḍ* for voluntary ones (see Muḥammad ʿĀbid, *Qawl*, 20-21, quoting al-Nawawī's *Sharḥ* on Muslim); (iv) the transmission of the Madinans Muṭarrif (d. 214/829) and Ibn al-Mājishūn (d. 212/827) in the "Wāḍiḥa," as also of the Egyptian Ibn ʿAbd al-Ḥakam (d. 214/829) and, according to al-Bājī, one of two transmissions from the Iraqis, that *qabḍ* is recommended in both (see Ibn Rushd, *Bayān*, vol. i, 395, vol. xviii, 72; *Mud.* vol. i, 74, n. 1; al-Bājī, *Muntaqā*, vol. i, 281; Muḥammad ʿĀbid, *Qawl*, 19, 23, quoting al-Zayn al-ʿIrāqī's *Sharḥ* on al-Tirmidhī and al-Bannānī's *Ḥāshiya*). However, in cases of disagreement it is Ibn al-Qāsim's transmission from Mālik, or more generally that of the Egyptians, that is usually given preference (see Ibrāhīm al-Zaylaʿī, Introduction to *Masāʾil lā yuʿdharu fīhā bi-l-jahl, sharḥ al-ʿallāma al-Amīr ʿalā manẓūmat Bahrām* (2nd ed., Beirut: Dār al-Gharb al-Islāmī, 1406/1986), 10; Muḥammad ʿĀbid, *Qawl*, 26-27, 34; also below, n. 85).

[5]   For the standard Mālikī position of later times, see, for example, Khalīl, *Mukhtaṣar Khalīl*, ed. Ṭāhir Aḥmad al-Zāwī (Cairo: Dār Iḥyāʾ al-Kutub al-ʿArabiyya, n.d.), 29, where *"sadl yadayhi"* is given as one of the recommended aspects of the prayer. Among Mālikī authorities preferring *qabḍ*, Ibn ʿAbd al-Barr (d. 463/1071), al-Lakhmī (d. 478/1085), Ibn Rushd [al-Jadd] (d. 520/1126), Abū Bakr b. al-ʿArabī (d. 543/1148), al-Qāḍī ʿIyāḍ (d. 544/1149), Ibn ʿAbd al-Salām (d. 660/1262), al-Qarāfī (d. 684/1285) and Ibn Juzayy (d. 741/1340) are mentioned by Muḥammad ʿĀbid (*Qawl*, 23).

[6]   Ḥanafīs: Mālik b. Anas, *al-Muwaṭṭaʾ*, transmission of Muḥammad b. al-Ḥasan al-Shaybānī, ed. ʿAbd al-Wahhāb ʿAbd al-Laṭīf (Beirut: Dār al-Qalam, n.d.) [herinafter *Muw. Sh.*], 104; al-Sarakhsī, *al-Mabsūṭ* (Cairo: Maṭbaʿat al-Saʿāda, 1324-31 [1906-12]), vol. i, 23-24. Shāfiʿīs: al-Muzanī, *al-Mukhtaṣar*, on the margin of al-Shāfiʿī, *Kitāb al-Umm* (Cairo: al-Maṭbaʿa al-Kubrā al-Amīriyya, 1321-26 [1903-08]), vol. i, 70-71. Ḥanbalīs: Ibn Qudāma, *al-Mughnī* (Cairo: Hajar li-l-Ṭibāʿa etc, 1406/1986), vol. ii, 144-45.

[7]   Ithnā ʿAsharī Shīʿa: al-Ḥurr al-ʿĀmilī, *Wasāʾil al-Shīʿa* (4th ed., Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, 1391 [1971]), vol. ii (part 2), 710. Zaydīs: Ibn al-Murtaḍā, *al-Baḥr al-zakhkhār* (Cairo: Maṭbaʿat al-Saʿāda, 1366-68/1947-49), vol. i, 241. Ismāʿīlīs: al-Nuʿmān b. Muḥammad, *Daʿāʾim al-Islām*, ed. Āṣaf ʿAlī Aṣghar Fayḍī [Fyzee] (Cairo: Dār al-Maʿārif, 1383/1963), vol. i, 159. Ibāḍīs: al-Muṣʿabī, *Kitāb al-Nīl wa-shifāʾ al-ʿalīl* (Cairo: al-Maṭbaʿa al-Bārūniyya, 1305 [1888]), vol. i, 57.

The ḥadīth *texts*

Since the Sunnīs, as we have noted, all purport to base their *fiqh* on "the *sunna*," understood to be the *sunna* of the Prophet, and since most of them consider this *sunna* to be recorded in the books of *ḥadīth*, particularly the "Six Books" of al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī and Ibn Mājah, we shall first see what these books have to say about *qabḍ* and *sadl*, having already noted the two *ḥadīth*s that Mālik records on the subject.

Al-Bukhārī (d. 265/870)
In his *Ṣaḥīḥ*, al-Bukhārī records one *ḥadīth* on the subject, namely, the same that Mālik records from Sahl b. Sa'd in the *Muwaṭṭa'*. (Al-Bukhārī relates it from Mālik, via al-Qa'nabī.)[8]

Muslim (d. 261/875)
In his *Ṣaḥīḥ*, Muslim records a *ḥadīth* from Wā'il b. Ḥujr who describes how, when he visited Madina, he saw the Prophet doing the prayer with his right hand over his left.[9]

Abū Dāwūd (d. 275/888)
Abū Dāwūd, in his *Sunan*, records nine *ḥadīth*s indicating *qabḍ*: three versions of the Wā'il *ḥadīth*; a report from Ibn al-Zubayr[10] to the effect that *qabḍ* is "part of the *sunna*"; a *ḥadīth* from Ibn Mas'ūd to the effect that the Prophet saw him praying with his left hand over his right and so took hold of his right hand and put it over his left instead; a report from 'Alī that it is *sunna* to put one hand over the other when doing the prayer, below the navel; another to the effect that 'Alī used to do the prayer with the right hand holding the left, but above the navel; one from Abū Hurayra to the effect that *qabḍ* should be below the navel; and a *mursal ḥadīth* from Ṭāwūs that the Prophet used to pray with *qabḍ*. There is also a report from Sa'īd b. Jubayr that *qabḍ* should be

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8 See al-Bukhārī, *al-Jāmi' al-Ṣaḥīḥ*, ed. Ludolf Krehl (Leiden: E.J. Brill, 1862-1907), vol. i, 191-92.
9 See Muslim, *al-Jāmi' al-Ṣaḥīḥ*, ed. Muḥammad Dhihnī (Istanbul: Dār al-Ṭibā'a al-'Āmira, 1329-33/1911-15), vol. ii, 13.
10 That is, the Companion 'Abdallāh b. al-Zubayr rather than the Successor 'Urwa, for which identification, see, for example, Ibn 'Abd al-Barr, *al-Tamhīd li-mā fī al-Muwaṭṭa' min al-ma'ānī wa'l-asānīd* (Mohammedia: Wizārat al-Awqāf wa'l-Shu'ūn al-Islāmiyya, 1397-1411/1977-91), vol. xx, 74, 73; al-Shawkānī, *Nayl al-awṭār* (Beirut: Dār al-Jīl, 1973), vol. ii, 200; Muḥammad 'Ābid, *Qawl*, 18, quoting Ibn Baṭṭāl's *Sharḥ al-Bukhārī*.

above the navel and one from Abū Mijlaz that it should be below the navel.[11]

Al-Tirmidhī (d. *c.* 279/892)

Al-Tirmidhī, in his *al-Jāmiʿ al-ṣaḥīḥ* (also known as *al-Sunan*) records a *ḥadīth* from Hulb al-Ṭāʾī to the effect that the Prophet used to lead them in prayer and hold his left hand with his right. He also mentions that there are *ḥadīth*s on the subject from Wāʾil b. Ḥujr, Ghuṭayf b. al-Ḥārith,[12] Ibn ʿAbbās, Ibn Masʿūd and Sahl b. Saʿd.[13]

Al-Nasāʾī (d. 303/915)

In his *Sunan*, al-Nasāʾī records three *ḥadīth*s on *qabḍ*: two versions of the Wāʾil *ḥadīth* and a *ḥadīth* from Ibn Masʿūd similar to the one that Abū Dāwūd records.[14]

Ibn Mājah (d. 273/886)

In his *Sunan*, Ibn Mājah records three *ḥadīth*s on the subject: the *ḥadīth* from Hulb as in al-Tirmidhī, a version of the Wāʾil *ḥadīth*, and a version of the Ibn Masʿūd *ḥadīth* similar to that recorded by Abū Dāwūd and al-Nasāʾī but using the verb "passed by" rather than "saw."[15]

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[11] See Abū Dāwūd, *Sunan Abī Dāwūd*, on the margin of al-Zurqānī, *Sharḥ al-Muwaṭṭaʾ* (Cairo: al-Maṭbaʿa al-Khayriyya, 1310/1893), vol. i, 201, 202, 210-11.

[12] For the confusion surrounding this man's name, see Ibn ʿAbd al-Barr, *al-Istīʿāb fī maʿrifat al-aṣḥāb* (Hyderabad: Dāʾirat al-Maʿārif, 1336 [1917]), vol. ii, 516; idem, *Tamhīd*, vol. xx, 73. Al-Tirmidhī mentions only "Ghuṭayf b. al-Ḥārith." Ibn Abī Shayba gives "al-Ḥārith b. Ghuṭayf or Ghuṭayf b. al-Ḥārith" (see Ibn Abī Shayba, *al-Muṣannaf* [Hyderabad: al-Maṭbaʿa al-ʿAzīziyya, 1386/1966], vol. i, 390; also below, p. 22), as does al-Ṭabarānī (*al-Muʿjam al-kabīr* [2nd ed., Mawṣil: Maṭbaʿat al-Zahrāʾ al-Ḥadītha, 1984], vol. iii, 276; also below, p. 20). The *Musnad* of Aḥmad b. Ḥanbal includes *ḥadīth*s under the headings "Ghuḍayf b. al-Ḥārith" and "Ghuṭayf b. al-Ḥārith" and then gives the options "al-Ḥārith b. Ghuḍayf" and "al-Ḥārith b. Ghuṭayf" respectively in the actual *isnād*s (see Aḥmad, *al-Musnad* [Cairo: al-Maṭbaʿa al-Maymaniyya, 1313 (1895)], vol. iv, 105, vol. v, 290; also below, p. 19), although Ibn ʿAbd al-Barr quotes him as saying that the name is "al-Ḥārith b. Ghuṭayf" (see Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 73). Al-Bayhaqī gives only "al-Ḥārith b. Ghuḍayf" (see al-Bayhaqī, *al-Sunan al-kubrā* (Hyderabad: Dāʾirat al-Maʿārif, 1344 [1925-26]), vol. ii, 29, n. 1; also below, p. 21).

[13] See al-Tirmidhī, *al-Jāmiʿ al-Ṣaḥīḥ* (or *al-Sunan*), ed. Aḥmad Muḥammad Shākir (Cairo: Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī, 1356/1937), vol. ii, 32.

[14] See al-Nasāʾī, *Sunan al-Nasāʾī* (Cairo: al-Maṭbaʿa al-Miṣriyya, 1348/1930), vol. ii, 125-26.

[15] See Ibn Mājah, *Sunan Ibn Mājah*, ed. Muḥammad Fuʾād ʿAbd al-Bāqī (Cairo: Dār Iḥyāʾ al-Kutub al-ʿArabiyya, 1373/1954), vol. i, 266.

This is what we find in the Six Books referred to above. To these can be added the following:

Aḥmad ibn Ḥanbal (d. 241/855)
In his *Musnad*, Aḥmad records *ḥadīth*s on *qabḍ* similar to those mentioned above from 'Alī ("part of the *sunna* is ...."), Sahl b. Sa'd, Wā'il b. Ḥujr (11 versions) and Hulb (6 versions). He also records three versions of one from Ghuḍayf/Ghuṭayf b. al-Ḥārith or al-Ḥārith b. Ghuḍayf/Ghuṭayf[16] ("Whatever I forget, I will never forget that I saw the Messenger of Allah, may Allah bless him and grant him peace, doing the prayer having put his right hand over his left"), and one from Jābir similar to that from Ibn Mas'ūd mentioned above to the effect that the Prophet once passed by someone who was praying with his left hand over his right and so put his right hand over his left instead.[17]

Al-Dārimī (d. 255/923)
In his *Sunan* (or *Musnad*), al-Dārimī records a version of the *ḥadīth* from Wā'il b. Ḥujr.[18]

Al-Bazzār (d. 292/905)
In his *Zawā'id*, al-Bazzār records a *ḥadīth* from Shaddād b. Shuraḥbīl similar to that from "al-Ḥārith b. Ghuṭayf" recorded by Aḥmad ("Whatever I forget, I will never forget .... etc").[19]

Ibn Khuzayma (d. 311/924)
In his *Ṣaḥīḥ*, Ibn Khuzayma records four versions of the Wā'il *ḥadīth*.[20]

Ibn Ḥibbān (d. 354/965)
Ibn Ḥibbān records two *ḥadīth*s on the subject in his *Ṣaḥīḥ*: a version of the Wā'il *ḥadīth* and a "three things" *ḥadīth* from Ibn 'Abbās.[21] (A "three things" *ḥadīth* is one which, like the *ḥadīth* that Mālik records

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[16] For the uncertainty about this man's name, see above, n. 12.
[17] See Aḥmad, *Musnad*, vol. i, 110 ('Alī); vol. iii, 381 (Jābir); vol. iv, 105, 290 ("Ghuḍayf" etc.), 316-19 (Wā'il); vol. v, 226-27 (Hulb), 336 (Sahl).
[18] See al-Dārimī, *Sunan* (Damascus: Maṭba'at al-I'tidāl, 1349 [1930]), vol. i, 283.
[19] See al-Haythamī, *Kashf al-astār 'an Zawā'id al-Bazzār*, ed. Ḥabīb al-Raḥmān al-A'ẓamī (Beirut: Mu'assasat al-Risāla, 1399/1979), vol. i, 253.
[20] See Ibn Khuzayma, *al-Ṣaḥīḥ*, ed. Muḥammad Muṣṭafā al-A'ẓamī, vol. i (Beirut: Dār al-Qalam, 1970), 242-43.
[21] See Ibn Ḥibbān, *Ṣaḥīḥ*, ed. Shu'ayb al-Arna'ūt. (Beirut: Mu'assasat al-Risāla, 1404-12/1984-91), vol. v, 109, 67-68.

from ʿAbd al-Karīm b. Abī al-Mukhāriq, lists three things—one of which is *qabḍ*—as being part of the practice of the prophets.)

Al-Ṭabarānī (d. 360/971)
In his *Kabīr* (i.e. *al-Muʿjam al-kabīr*), al-Ṭabarānī records similar *hadīth*s to those recorded by Aḥmad from "al-Ḥārith b. Ghuṭayf," by al-Bazzār from Shaddād b. Shuraḥbīl, and by Ibn Ḥibbān from Ibn ʿAbbās (two versions). He also records versions of the "three things" *hadīth* from Yaʿlā b. Murra and Abū al-Dardāʾ; a *hadīth* from ʿUqba b. Abī ʿĀʾisha to the effect that he saw the Companion ʿAbdallāh b. Jābir al-Bayāḍī doing the prayer with *qabḍ*; and a *hadīth* from Muʿādh to the effect that the Prophet "would let his hands rest by his sides (*arsalahumā*) after saying the initial *takbīr* and then be silent for a while, and that sometimes (*rubbamā*) he would put one hand over the other."[22] According to al-Haythamī, al-Ṭabarānī also records, in his *Awsaṭ*, the same *hadīth* from Jābir that Aḥmad records.[23]

Al-Dāraquṭnī (d. 385/995)
Al-Dāraquṭnī, in his *Sunan*, records fifteen *hadīth*s on the subject of *qabḍ*: two versions of the Wāʾil *hadīth*; the same *hadīth*s from Ibn Masʿūd that Abū Dāwūd and al-Nasāʾī record plus a third descriptive *hadīth* from him to the effect that the Prophet would hold his left hand in his right while doing the prayer; a version of the Hulb *hadīth* similar to one recorded by Aḥmad; two versions of the "part of the *sunna*" *hadīth* recorded by Abū Dāwūd and Aḥmad from ʿAlī, as also a *tafsīr hadīth* from him to the effect that the command *wa-nhar* in the Qurʾanic phrase *fa-ṣalli li-rabbika wa-nhar* (Q. 108:2) refers to putting the right hand over the left in prayer; "three things" *hadīth*s from ʿĀʾisha, Ibn ʿAbbās and Abū Hurayra, as well as a "part of the *sunna*" *hadīth* from the latter; the "passed by" *hadīth* from Jābir recorded by Aḥmad and al-Ṭabarānī; and a *hadīth* of rather indeterminate meaning from Anas to the effect that when the Prophet stood for the prayer he would say

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[22]   See al-Ṭabarānī, *Muʿjam*, vol. iii, 276 ("al-Ḥārith b. Ghuṭayf"); vol. vii, 272-73 (Shaddād); vol. xi, 6, 159 (Ibn ʿAbbās); vol. xx, 63 (Muʿādh); vol. xxii, 216-17 (Yaʿlā). For the *hadīth* from Abū al-Dardāʾ, see al-Haythamī, *Majmaʿ al-zawāʾid* (Cairo: Maktabat al-Qudsī, 1352 [1933-34]), vol. ii, 105; al-Suyūṭī, *Tanwīr al-ḥawālik*, on the margin of *Muw.*, vol. i, 133. For the *hadīth* from ʿUqba b. Abī ʿĀʾisha, see al-Haythamī, *Majmaʿ*, vol. ii, 105; Ibn Ḥajar, *al-Iṣāba fī tamyīz al-ṣaḥāba* (Cairo: Maṭbaʿat al-Saʿāda and al-Maṭbaʿa al-Sharafiyya, 1323-25 1905-07), vol. iv, 45.
[23]   See al-Haythamī, *Majmaʿ*, vol. ii, 105.

"Like this and like this" on his right and his left (*qāla hākadhā wa-hākadhā ʿan yamīnihi wa-ʿan shimālihi*).[24]

Al-Bayhaqī (d. 458/1066)
Among later works, special mention should be made of the *Kitāb al-Sunan al-kubrā* of al-Bayhaqī. This extensive compendium, which duplicates much of the material referred to above, contains a total of twenty-five reports from thirteen Companions on the subject of *qabḍ*, namely: five versions of the *ḥadīth* from Wāʾil; three versions of the descriptive and/or "part of the *sunna*" *ḥadīth*s from ʿAlī and four of the *tafsīr ḥadīth* from him; *tafsīr ḥadīth*s of the same ilk from Ibn ʿAbbās and Anas; "three things" *ḥadīth*s from Ibn ʿUmar, Ibn ʿAbbās, Abū Hurayra and ʿĀʾisha; a "part of the *sunna*" *ḥadīth* from Abū Hurayra; standard versions of the *ḥadīth*s from Sahl b. Saʿd, Ibn Masʿūd, Hulb, al-Ḥārith b. Ghuḍayf (*sic*), Shaddād b. Shuraḥbīl and Ibn al-Zubayr, and also the reports on the subject from Saʿīd b. Jubayr and Abū Mijlaz referred to by Abū Dāwūd.[25] In addition, al-Bayhaqī's commentator, Ibn al-Turkumānī (d. *c.* 750/1349), quoting Ibn Ḥazm, mentions a "three things" *ḥadīth* from Anas.[26]

The above selection—and there are many other possible sources[27]—represents the "classical" collections of *ḥadīth*. However, mention should also be made here of two important "pre-classical" collections, namely, the *Muṣannaf* works of ʿAbd al-Razzāq al-Ṣanʿānī (d. 211/827) and Ibn Abī Shayba (d. 235/849).

ʿAbd al-Razzāq
As far as I have been able to ascertain, ʿAbd al-Razzāq's *Muṣannaf* contains no material on *qabḍ*, although there is a short section of Successor material on *sadl*.[28] I am not sure of the reason for this hiatus, if hiatus it be.

Ibn Abī Shayba
Ibn Abī Shayba records fifteen reports on the subject of *qabḍ* in his *Muṣannaf*: two versions of the Wāʾil *ḥadīth*; three reports from ʿAlī (a

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[24] See al-Dāraquṭnī, *Sunan* (Beirut: ʿĀlam al-kutub, n.d.), vol. 1, 283-87.
[25] See al-Bayhaqī, *Sunan*, vol. ii, 26, 28-32.
[26] See Ibn al-Turkumānī, *al-Jawhar al-naqī* (on the margin of al-Bayhaqī's *Sunan*), vol. ii, 32.
[27] Ibn ʿAbd al-Barr's *Tamhīd* (vol. xx, 71-9), for instance—to mention but one source—duplicates much of the above material.
[28] See ʿAbd al-Razzāq, *al-Muṣannaf*, ed. Ḥabīb al-Raḥmān al-Aʿẓamī (Beirut: al-Majlis al-ʿIlmī, 1970-72), vol. ii, 276, nos. 3345-47; also below, pp. 26-27.

tafsīr ḥadīth, a description *ḥadīth*, and a "part of the *sunna*" *ḥadīth*); the *ḥadīth*s from al-Ḥārith b. Ghuṭayf (or Ghuṭayf b. al-Ḥārith), Hulb and Abū 'l-Dardā' mentioned above; a *mursal ḥadīth* from al-Ḥasan [al-Baṣrī] ("It is as if I am looking at the learned men of the Banī Isrā'īl doing the prayer with their right hands over their left");[29] a *mursal ḥadīth* from Abū 'Uthmān [al-Nahdī] of the "passed by" type, similar to those from Jābir and Ibn Mas'ūd mentioned above;[30] and reports about the subject from the Successors Ibrāhīm [al-Nakha'ī], Abū Mijlaz, Abū Ziyād the *mawlā* of the Āl Darrāj ("Whatever I forget, I will never forget ....", referring to Abū Bakr), Mujāhid and Abū al-Jawzā'.[31]

As in 'Abd al-Razzāq's *Muṣannaf*, there is a section on *sadl* (referred to as *irsāl al-yadayn*) with material from various Successors and, in this instance, one Companion.[32]

What is immediately noteworthy from the above is the complete absence of any pro-*sadl* material in the "classical" collections but its presence in the form of (mainly) Successor *ḥadīth* in the "pre-classical" collections of 'Abd al-Razzāq and Ibn Abī Shayba (and of course the

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[29] This particular *ḥadīth* might lead to the consideration that there is an element of *mukhālafat ahl al-kitāb* in the question of *sadl v. qabḍ*, as, for instance, there is with the question of *raf' al-yadayn* (see Maria Isabel Fierro, "La polémique à propos de *raf' al-yadayn fī l-ṣalāt* dans Al-Andalus," *Studia Islamica*, vol. v [1987], 69-70). However, apart from this single *ḥadīth*, which indicates a seemingly positive attitude to the *ahl al-kitāb*, I have found nothing in either the traditional literature or in Western scholarship on the subject (e.g. Ignaz Goldziher, "Usages juives d'après la littérature des musulmans," *Revue des Études Juives*, vol. xxviii [1894], 75-94; Arent Jan Wensinck, *Muhammad and the Jews of Medina*, tr. and ed. Wolfgang Behn [Freiburg im Breisgau: Klaus Schwarz Verlag, 1975], 72-103 [a French translation of this section of the book, by G.H. Bousquet and G.-W. Bousquet-Mirandolle, was published under the title "L'influence juive sur les origines du culte musulman" in *Revue Africaine*, vol. xcviii (1954), 84-112; the original Dutch version of the book was first published as *Mohammed en de Joden te Medina* in Leiden in 1908]; Georges Vajda, "Juifs et musulmans selon le *ḥadīth*," *Journal Asiatique*, vol. ccxxix [1937], 57-127, esp. 84) to suggest that this is the case in this issue.

[30] The presence of Abū 'Uthmān in the *isnād* of this particular version links it to the Ibn Mas'ūd *ḥadīth* related by Abū Dāwūd, Ibn Mājah, Aḥmad and al-Dāraquṭnī, but the third-person referent of Ibn Abī Shayba's version ("[He] passed by *a man*") rather than the first-person referent of the Ibn Mas'ūd *ḥadīth* ("[He] saw/passed by *me*") links it rather to the Jābir *ḥadīth* related by Aḥmad, al-Ṭabarānī and al-Dāraquṭnī ("[He] passed by *a man*"). A comparison between *isnād* and content as regards this and the other *ḥadīth*s on the subject would make an interesting future study.

[31] See Ibn Abī Shayba, *Muṣannaf*, vol. i, 390-91; cf. Ibn 'Abd al-Barr, *Tamhīd*, vol. xx, 73, 74, 77, 79.

[32] See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391-92; also below, p. 27. For the identification of "Ibn al-Zubayr" as the Companion 'Abdallāh b. al-Zubayr, see above, n. 10.

fiqh text from Mālik in the *Mudawwana*, *'Utbiyya*, etc). We shall return to the significance of this point later.

If we organise this material according to the Companions from whom it is transmitted (I am assuming for the purposes of the present discussion that the *isnād*s are an essentially accurate representation of the transmission process), we arrive at the following systematization (arranged roughly in order of their appearance above):

(i) the *ḥadīth* from Sahl b. Saʿd ("People used to be told .... etc") recorded by Mālik, al-Bukhārī, Aḥmad and al-Bayhaqī, and referred to by al-Tirmidhī.

(ii) the *ḥadīth* of Wāʾil b. Ḥujr ("I saw the Messenger of Allah .... etc") recorded in various versions by Ibn Abī Shayba, Muslim, Abū Dāwūd, al-Nasāʾī, Ibn Mājah, Aḥmad, al-Dārimī, Ibn Khuzayma, Ibn Ḥibbān and al-Bayhaqī, and referred to by al-Tirmidhī.

(iii) Ibn al-Zubayr's "part of the *sunna*" *ḥadīth* recorded by Abū Dāwūd and al-Bayhaqī.

(iv) two *ḥadīth*s from Ibn Masʿūd, i.e. the "passed by" type *ḥadīth* ("The Prophet saw me/passed by me .... etc") recorded by Abū Dāwūd, al-Nasāʾī, Ibn Mājah, al-Dāraquṭnī and al-Bayhaqī, and the descriptive *ḥadīth* recorded by al-Dāraquṭnī.

(v) three *ḥadīth*s from ʿAlī, i.e. the "part of the *sunna*" *ḥadīth* recorded by Ibn Abī Shayba, Abū Dāwūd, Aḥmad and al-Dāraquṭnī, the descriptive *ḥadīth* about him ("I saw ʿAlī/ʿAlī used to .... etc") recorded by Ibn Abī Shayba, Abū Dāwūd and al-Bayhaqī, and the *tafsīr ḥadīth* recorded by Ibn Abī Shayba, al-Dāraquṭnī and, in various versions, al-Bayhaqī.

(vi) three *ḥadīth*s from Abū Hurayra, i.e. the *"sunna" ḥadīth* recorded by Abū Dāwūd, al-Dāraquṭnī and al-Bayhaqī, the "three things" *ḥadīth* recorded by al-Dāraquṭnī and al-Bayhaqī, and, in addition to these two, a descriptive *ḥadīth* recorded from him by Ibn ʿAbd al-Barr to the effect that the Prophet would put his right hand over his left after saying the initial *takbīr* in the funeral prayer (*janāza*).[33]

(vii) the *ḥadīth* from Hulb ("I saw the Messenger of Allah ..../The Messenger of Allah used to .... etc") recorded by Ibn Abī Shayba, al-Tirmidhī, Ibn Mājah, Aḥmad, al-Dāraquṭnī and al-Bayhaqī.

(viii) the *ḥadīth* of al-Ḥārith b. Ghuṭayf (or Ghuṭayf b. al-Ḥārith, etc) ("Whatever I forget, I will never forget .... etc") recorded by Ibn

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[33] See Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 79.

Abī Shayba, Aḥmad, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and referred to by al-Tirmidhī.

(ix) the *ḥadīth* of Jābir ("The Messenger of Allah passed by a man .... etc") recorded by Aḥmad, al-Ṭabarānī and al-Dāraquṭnī.

(x) the *ḥadīth* of Shaddād b. Shuraḥbīl ("Whatever I forget, I will never forget .... etc") recorded by al-Bazzār, al-Ṭabarānī and al-Bayhaqī.

(xi) two *ḥadīth*s recorded from Ibn ʿAbbās, i.e. the "three things" *ḥadīth* recorded by Ibn Ḥibbān, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and the *tafsīr ḥadīth* recorded by al-Bayhaqī.

(xii) the "three things" *ḥadīth* recorded from Yaʿlā b. Murra by al-Ṭabarānī.

(xiii) the "three things" *ḥadīth* recorded from Abū al-Dardāʾ by Ibn Abī Shayba and al-Ṭabarānī.

(xiv) the *ḥadīth* of Muʿādh recorded by al-Ṭabarānī.

(xv) the "three things" *ḥadīth* recorded from ʿĀʾisha by al-Dāraquṭnī and al-Bayhaqī.

(xvi) three *ḥadīth*s from Anas, i.e. the *tafsīr ḥadīth* recorded by al-Bayhaqī, the "three things" *ḥadīth* recorded by al-Bayhaqī's commentator, al-Turkumānī, and the indeterminate *ḥadīth* recorded from him by al-Dāraquṭnī.

(xvii) the "three things" *ḥadīth* recorded from Ibn ʿUmar by al-Bayhaqī.

(xviii) the *mursal ḥadīth* (descriptive) from Ṭāwūs recorded by Abū Dāwūd.

(xix) the *mursal ḥadīth* from al-Ḥasan ("It is as if I am looking at the learned men of the Banī Isrāʾīl .... etc") recorded by Ibn Abī Shayba.

(xx) the *mursal ḥadīth* of the "passed by" type from Abū ʿUthmān al-Nahdī recorded by Ibn Abī Shayba. (This should probably come under either the "passed by" *ḥadīth* of Jābir or Ibn Masʿūd; see above, n. 30).

(xxi) the *ḥadīth* of ʿUqba b. Abī ʿĀʾisha about ʿAbdallāh b. Jābir al-Bayāḍī praying with *qabḍ* recorded by al-Ṭabarānī.

(xxii) the descriptive report from Abū Ziyād about Abū Bakr ("Whatever I forget, I will never forget .... etc") recorded by Ibn Abī Shayba.

[NOTE: This material can also be organised according to theme. If we do so, the following six categories emerge:

(i) the description category ("I saw .... etc"), under which come the numerous transmissions from Wā'il b. Ḥujr, the *ḥadīth* of Hulb, one about 'Alī, one from Ibn Mas'ūd, the *ḥadīth* from Mu'ādh, the "indeterminate" *ḥadīth* from Anas, the *ḥadīth* from Ṭāwūs and, as a sub-category, those *ḥadīth*s which begin with the formula, "Whatever I forget, I will never forget .... etc," which include the *ḥadīth*s from "al-Ḥārith b. Ghuṭayf" and Shaddād b. Shuraḥbīl and the Companion *ḥadīth*s about 'Abdallāh b. Jābir al-Bayāḍī (from 'Uqba b. Abī 'Ā'isha) and Abū Bakr (from Abū Ziyād). Under this category also comes the funeral-prayer *ḥadīth* of Abū Hurayra and, perhaps, the *mursal ḥadīth* from al-Ḥasan ("It is as if I am looking at the learned men of the Banī Isrā'īl .... etc").

(ii) the "passed by" category, under which come the *ḥadīth*s of Jābir, one of two from Ibn Mas'ūd, and the *mursal ḥadīth* from Abū 'Uthmān al-Nahdī.

(iii) the "part of the *sunna*" category, under which come the *ḥadīth*s of this type recorded from 'Alī, Abū Hurayra and Ibn al-Zubayr.

(iv) the "three things" category, under which come the *ḥadīth*s of 'Ā'isha, Ibn 'Umar, Abū al-Dardā', Ya'lā b. Murra, one of three *ḥadīth*s recorded from Abū Hurayra, one of three *ḥadīth*s recorded from Anas, one of two *ḥadīth*s recorded from Ibn 'Abbās, and the *ḥadīth* recorded by Mālik from 'Abd al-Karīm b. Abī al-Mukhāriq.

(v) the *tafsīr* category, under which come the *ḥadīth*s of this type recorded from 'Alī, Ibn 'Abbās and Anas.

(vi) the "people used to be told" category of the Sahl b. Sa'd *ḥadīth* which has no obvious parallel in any of the other *ḥadīth*s on the subject.]

There are thus at least thirty distinct, albeit closely-related, *ḥadīth*s (in the sense of reports from either the Companions or the Prophet) from or via nineteen Companions and three Successors that seem to indicate that it is desirable, if not obligatory, to do the prayer with *qabḍ*.[34]

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[34] This at least is the assumption of those such as al-Shawkānī (d. 1250/1832) and Muḥammad al-Makkī b. 'Azzūz al-Tūnisī (d. 1334/1916) who use this number to bolster their arguments for *qabḍ*. Al-Shawkānī (*Nayl*, vol. ii, 201, 202) refers to "twenty *ḥadīth*s from eighteen Companions ...." (he fails to include either Anas or Abū Bakr but includes Ḥudhayfa) ".... and two Successors" and uses the words *mashrū'iyya* (part of the *sharī'a*) and *wujūb* (obligatory) to describe *qabḍ*. Muḥammad al-Makkī, in his *Risāla*, refers to "twenty *ḥadīth*s from about eighteen Companions" and uses the word *maṭlūbiyya* (desirable, required) to describe *qabḍ*

Nevertheless, the early Sunnī *fuqahā'* were by no means agreed on the desirability of *qabḍ* when doing the prayer.

The views of the fuqahā'

Speaking first of the four surviving Sunnī *madhhab*s, we have already noted that the Ḥanafīs, Shāfiʿīs and Ḥanbalīs, as well as some of the Mālikīs, take the view that the prayer should be done with *qabḍ*. According to Ibn ʿAbd al-Barr, this was also the view of several other major Sunnī authorities, among whom he mentions Sufyān al-Thawrī (d. 161/778), al-Ḥasan b. Ṣāliḥ (d. 167/783-4), Isḥāq [b. Rāhawayh] (d. 238/853), Abū Thawr (d. 240/854), Abū ʿUbayd (d. 224/838), Dāwūd b. ʿAlī (d. 270/884) and al-Ṭabarī (d. 310/923). All these people, he says, take this view because it is "a *sunna* that has been laid down (*sunna masnūna*)," by which he and they clearly mean that it is something about which there are formal reports from the Prophet which thus indicate his *sunna* and which thus cannot be gainsaid.[35]

However, we have also noted that Mālik (according to Ibn al-Qāsim's report from him in the *Mudawwana* and the *ʿUtbiyya*) and, following him, most of the Mālikīs, take the view that *qabḍ* is disliked in obligatory prayers (rather, *sadl* is what is required), although *qabḍ* is acceptable in voluntary prayers if someone has been standing in the prayer for a long time and wants to make things easier for himself. Ibn ʿAbd al-Barr tells us that this was not only the view of Mālik but also that of his Egyptian contemporary al-Layth b. Saʿd (d. 175/791).[36] (This is significant because we know that al-Layth, despite his great respect for Mālik and Madinan *fiqh*, was not averse to delivering judgments against the Madinan position if he felt the reasoning behind them to be weak, as his letter to Mālik rejecting several Madinan judgments clearly shows.)[37] Ibn ʿAbd al-Barr also tells us, quoting ʿAbd al-Razzāq, that this was the way Ibn Jurayj (d. 150/767) used to

(see Muḥammad ʿĀbid, *Qawl*, 1).

[35] See Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 75; cf. the arguments of al-Shawkānī and Muḥammad al-Makkī in the immediately preceding note. In his *Kāfī*, however, Ibn ʿAbd al-Barr refers to both *qabḍ* and *sadl* as *sunna* (see Ibn ʿAbd al-Barr, *al-Kāfī fī fiqh ahl al-Madīna al-Mālikī* [Riyadh: Maktabat al-Riyāḍ al-Ḥadītha, 1400/1980], vol. i, 206).

[36] See Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 74-75; also al-Shawkānī, *Nayl*, vol. ii, 201 (quoting al-Nawawī); Muḥammad ʿĀbid, *Qawl*, 19 (quoting al-ʿAynī's commentary on al-Bukhārī and al-Zayn al-ʿIrāqī's commentary on al-Tirmidhī).

[37] For al-Layth's letter to Mālik, see al-Fasawī, *Kitāb al-Maʿrifa waʾl-tārīkh*, ed. Akram Ḍiyāʾ al-ʿUmarī (Beirut: Muʾassasat al-Risāla, 1401/1981), vol. i, 687-95; Ibn Qayyim al-Jawziyya, *Iʿlām al-muwaqqiʿīn* (Cairo: Idārat al-Ṭibāʿa al-Munīriyya, n.d.), vol. iii, 72-77.

pray, and that both *sadl* and *qabḍ* were considered equally acceptable by al-Awzāʿī (d. 154/774) and ʿAṭāʾ [b. Abī Rabāḥ] (d. 114/732).[38] In ʿAbd al-Razzāq's *Muṣannaf* we also find a report that Ibrāhīm [al-Nakhaʿī] (d. 96/715) used to pray with *sadl*,[39] which is also recorded by Ibn Abī Shayba who, in his section on *sadl*, adds reports to the same effect from al-Ḥasan [al-Baṣrī] (d. 110/728), [ʿAbdallāh] b. al-Zubayr (d. 73/692),[40] Ibn Sīrīn (d. 110/728), Saʿīd b. al-Musayyab (d. *c.* 94/713) and Saʿīd b. Jubayr (d. 95/714).[41] Ibn Abī Shayba also includes a report from Ibrāhīm to the effect that there is no harm (*lā baʾs*) in *qabḍ*,[42] thus echoing the view of al-Awzāʿī and ʿAṭāʾ mentioned above. He also includes a report from Mujāhid (d. 104/722) which, although included by him in the section on *qabḍ*, is construed by Ibn ʿAbd al-Barr to be an anti-*qabḍ* report.[43]

We thus have two groups among the Sunnīs: those who say, following the outward interpretation of the various *ḥadīths* on the subject, that *qabḍ* is the preferable way, and those who, for some other reason, say it should be *sadl*. (For the moment the unanimous Shīʿa/Khawārij position on *sadl* need not concern us.)

The question we then have to ask is: Why is it that this second group should prefer *sadl*? More particularly: Why is it that Mālik, who himself includes two *ḥadīths* in his *Muwaṭṭaʾ* ostensibly indicating *qabḍ*, should nevertheless—according to the dominant opinion related from him—prefer *sadl*?

The answer to this question lies in the definition of the word "*sunna*" and the extent to which *sunna* is or is not reflected by *ḥadīth*.

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38 See Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 75. See also ʿAbd al-Razzāq, *Muṣannaf*, vol. ii, 276, no. 3346 (ʿAṭāʾ and Ibn Jurayj); al-Sarakhsī, *Mabsūṭ*, vol. 1, 23-24 (al-Awzāʿī); al-Shawkānī, *Nayl*, vol. ii, 201, quoting Ibn Sayyid al-Nās (al-Awzāʿī); Muḥammad ʿĀbid, *Qawl*, 19, quoting the commentaries of Ibn Baṭṭāl and al-ʿAynī on al-Bukhārī and al-Zayn al-ʿIrāqī's commentary on al-Tirmidhī (ʿAṭāʾ and al-Awzāʿī).

39 See ʿAbd al-Razzāq, *Muṣannaf*, vol. ii, 276, no. 3347.

40 For this identification, see above, n. 10.

41 See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391-92; also Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 74, 76; al-Shawkānī, *Nayl*, vol. ii, 201; Muḥammad ʿĀbid, *Qawl*, 18-19, quoting the commentaries of Ibn Baṭṭāl and al-ʿAynī on al-Bukhārī and al-Zayn al-ʿIrāqī's commentary on al-Tirmidhī.

42 See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391; Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 76.

43 See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391; Ibn ʿAbd al-Barr, *Tamhīd*, vol. xx, 79.

Sunna or ḥadīth?

For the average Muslim today, *sunna* is effectively what is recorded in
the books of *ḥadīth* that are assumed to contain all the reported
sayings, acts and tacit approvals of the Prophet, otherwise known as
his *sunna*. More specifically, it is what is recorded in the two *Ṣaḥīḥ*
collections of al-Bukhārī and Muslim, although extended to include
also the other four of the Six Books and others like them, according to
the awareness of the individual concerned.

   Two things, however, should be noted about these compilations.
Firstly, almost all of them date from the middle of the third century
(Hijrī) or later. That is, the men who compiled them were working in or
around the middle of the third century or later. The important exceptions
to this rule are the collections of Mālik (d. 179/795), ʿAbd al-Razzāq (d.
211/827) and Ibn Abī Shayba (d. 235/849), who all lived and worked
in the second part of the second or early part of the third century.

   Secondly, if we compare these two types of *ḥadīth*-material—the
earlier and the later—we find one major difference: the earlier works
contain considerable material from the Successors as well as from the
Prophet and the Companions, whereas the later works consist almost
entirely of "Prophet-only" material (with some allowance for the first
four caliphs). In other words, what one could describe as a massive
editing process has taken place, which we can date to somewhere in the
first half of the third century. Before that date the choice of material is
very wide; after that date it is almost exclusively Prophetic.

The date of the Muwaṭṭaʾ

At this point a short digression is necessary before continuing with our
main theme. Calder has recently expressed doubt as to second century
nature of what is normally considered to be Mālik's *Muwaṭṭaʾ*,
suggesting that it is a Cordoban production of the latter part of the third
century.[44] My own view is that the *Muwaṭṭaʾ* is not only a product of
Mālik in Madina before his death in 179 AH, but was also substantial-
ly in place before the year 150 AH, thus making it our earliest extant
text of this nature. The evidence for this is fourfold:

   Firstly, there exists a papyrus fragment of the text which Abbott
dates by textual evidence—particularly the characteristics of the script,
the absence of glosses, the unsystematic order of the *ḥadīth*s and, most

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   [44]   See Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Claren-
don Press, 1993), 38, 146.

significantly in her opinion, the consistent use of 'an in the isnāds together with the absence of any initial transmission formula such as qāla, akhbaranī, ḥaddathanī, etc—to Mālik's own day in the second half of the second century AH.[45]

Secondly, we possess an early parchment fragment, dated 288 AH, of 'Alī b. Ziyād's (d. 183/799) transmission of the Muwaṭṭa', trans-mitted by a certain Ḥasan b. Aḥmad[46] from Jabala b. Ḥammād (d. 299/911) from Saḥnūn (d. 240/854) from 'Alī b. Ziyād, who was Saḥnūn's main teacher.[47] Ibn Ziyād, who is credited with being the first to introduce the Muwaṭṭa' into Ifrīqiyā,[48] returned to Tunis in 150 AH, which year his transmission must therefore predate.[49] At the very least we are told that he was teaching it to Saḥnūn before the latter's departure for Egypt at the beginning of the year 178 AH.[50] We should also bear in mind that this is the same Saḥnūn who was responsible for transmitting the Mudawwana from Ibn al-Qāsim, himself another trans-mitter of the Muwaṭṭa' from Mālik (see below), which poses problems for Calder's claim that the Mudawwana is the earlier of the two books if in fact they are both related by or from the same person—Ibn al-Qāsim—who died in 191/806.

Thirdly, a comparison of Ibn Ziyād's and the other transmissions currently available either wholly or partly in printed form, i.e. those of Yaḥyā b. Yaḥyā al-Laythī (d. 234/848), al-Shaybānī (d. 189/805) and

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[45] See Nabia Abbott, Studies in Arabic Literary Papyri (Chicago: University of Chicago Press, 1957-72), vol. ii, 114, 121-28, esp. 127, where she says: "Thus the paleography, the scribal practices, the text, the order of the traditions and the isnād terminology of the papyrus show a remarkable degree of conformity with the scholarly practices of Mālik and his contemporaries. On the strength of this internal evidence the papyrus folio can be safely assigned to Mālik's own day."

[46] For a possible identification of this man, see Muwaṭṭa' al-Imām Mālik, qiṭʿa minhu bi-riwāyat Ibn Ziyād, ed. Muḥammad al-Shādhilī al-Nayfar (Beirut: Dār al-Gharb al-Islāmī, 1400/1980) [herinafter Muw. Ibn Ziyād], Introduction, 99-101.

[47] For this fragment, see Muw. Ibn Ziyād; also Joseph Schacht, "On Some Manuscripts in Kairouan and Tunis," Arabica, vol. xiv (1967), 227-28. For Ibn Ziyād being Saḥnūn's main teacher, see Muw. Ibn Ziyād, Introduction, 44-45.

[48] See al-Qāḍī 'Iyāḍ, Tartīb al-madārik, ed. Aḥmad Bakīr Maḥmūd (Beirut and Tripoli: Dār Maktabat al-Ḥayāt and Dār Maktabat al-Fikr, 1387/1967), vol. i, 326.

[49] See Muhammad Al-Aroosi Abdul-Qadir, "The Reception and Development of Malikite Legal Doctrine in the Western World" (unpublished Ph.D. thesis, Edinburgh University, 1973), 14, also 11, citing Ibn 'Āshūr's A'lām al-fikr al-Islāmī, 25. This accords with Ibn Qutayba's (d. 276/889) suggestion that the Muwaṭṭa' was completed in or around 148 AH (see Muḥammad Yūsuf Gurāyā, "Historical Background of the Compilation of the Muwaṭṭa' of Mālik b. Anas," Islamic Studies, vol. 7 [1968], p. 387, citing Ibn Qutayba's al-Imāma wa'l-siyāsa [Egypt, 1348 (1929), p. 155]. Gurāyā himself [p. 388] opts for 147 or 152 AH).

[50] See Muw. Ibn Ziyād, Introduction, 44, 104.

al-Qaʿnabī (d. 221/836),[51] shows that all four are remarkably similar in
their basic content and thus clearly represent one text. It is true that al-
Shaybānī's transmission shows certain marked differences from the
other three, but these are in the nature of editorial changes necessitated
by al-Shaybānī's purpose in using Mālik's *hadīth* in his teaching of
Kufan *fiqh*. Thus, firstly, the order, chapter divisions and titles used for
al-Shaybānī's material are very different from those of the other ver-
sions that we know. Secondly, and more importantly, he consistently
excludes Mālik's own comments and references to Madinan *ʿamal*, as
well as excluding other reports, especially from the Successors, but
also, on occasions, *hadīth*s from the Prophet. Instead, he includes his
own references to the views of Abū Ḥanīfa and the *fuqahāʾ* of Kufa,
often adding his own *hadīth*s. Thus, for instance, the sections on
"*Tayammum*" and "Reciting When Praying Behind an *Imām*" (to take
random examples) in the transmissions of Yaḥyā and al-Qaʿnabī are
almost identical,[52] whereas al-Shaybānī, although retaining the
Prophetic and Companion *hadīth*s, excludes all the comments by Mālik,
adds his own comments, and, in the case of the second section
mentioned above, adds thirteen more *hadīth*s from various authorities,
including the Prophet.[53] In his chapter on *liʿān*,[54] al-Shaybānī relates
only one short Prophetic *hadīth* from Mālik, to which he adds a com-
ment that this is in accord with the Kufan position, whereas Yaḥyā's
transmission contains, in addition to the same short *hadīth*, another
much longer one—about the *sabab al-nuzūl* ("occasion of revelation")
of the *liʿān* verses—which does not accord with the Kufan position, as
well as a quotation by Mālik of the verses in question, and numerous
reports from him concerning details arising from the same.[55] Al-
Shaybānī's editing is even more evident when we consider Ibn Ziyād's
transmission, which, although perhaps some thirty years earlier than
Yaḥyā's, is nevertheless remarkably similar to it, although not quite as
much as al-Qaʿnabī's. The chapters in Ibn Ziyād's transmission on

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51 For the transmission of Yaḥyā, see above, n. 3; for that of al-Shaybānī, see
above, n. 6. For the published fragment of al-Qaʿnabī's transmission, see *Muwaṭṭaʾ
al-Imām Mālik, riwāyat al-Qaʿnabī*, ed. ʿAbd al-Ḥafīẓ Manṣūr (Kuwait: al-Shurūq,
c. 1392/1972) [herinafter *Muw. Q.*].
52 See *Muw.* vol. i, 57-9, 80-82; *Muw. Q.*, 68-74, 136-40.
53 See *Muw. Sh.*, 48-49, 59-63.
54 *Liʿān*, or "mutual invocation of curses," is the procedure whereby a man who
accuses his wife of adultery without sufficient witnesses may avoid the penalty for
qadhf (accusations of illicit sexual intercourse), and she the penalty for adultery, by
their both swearing that they are telling the truth on pain of bringing the curse of
Allah on themselves if they are lying (see Qurʾān 24:6-9).
55 *Muw. Sh.*, 199; *Muw.* vol. ii, 23-25.

"Game of the Sea" (ṣayd al-baḥr) and "The 'Aqīqa Sacrifice," for
instance (again, to take random examples), are very similar to those in
Yaḥyā's transmission, although Ibn Ziyād includes some extra com-
ments from Mālik. Al-Shaybānī, on the other hand, excludes most of
the later, post-Companion material and again adds his own com-
ments.[56] The difference is obviously that whereas Yaḥyā, al-Qaʿnabī
and Ibn Ziyād agreed with Mālik's madhhab and method, al-Shaybānī
did not, but chose rather to include in his version only that material
which he considered useful for his own teaching purposes, i.e. that
which accorded with what was taught in Iraq. What concerns us here is
that, despite whatever editing has taken place, it is still Mālik's
Muwaṭṭaʾ, rather than some other text, that has been edited. Indeed, this
overall similarity between the different transmissions speaks highly for
the authenticity of the text and its attribution to Mālik.

We might also mention here the evidence of the Umm of al-Shāfiʿī
(d. 204/820), another transmitter of the Muwaṭṭaʾ from Mālik.[57] In his
sustained argument against Mālik and the Madinans, he quotes exten-
sively from "Mālik's book,"[58] and his quotations reflect a text almost
identical with that of Yaḥyā b. Yaḥyā's transmission, both in the
wording and the order of the reports quoted.[59]

We should also take into consideration that fragments of four, pos-
sibly five, other transmissions of the Muwaṭṭaʾ also survive, namely,
those of Ibn Bukayr (d. 226/840 or 231/845),[60] Ibn al-Qāsim (d.
191/806),[61] Abū Saʿīd al-Ḥadathānī (d. 240/854),[62] Abū Muṣʿab al-

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[56] Muw. vol. i, 325-6, 328-9; Muw. Ibn Ziyād, 189-97; Muw. Sh., 221, 225-26.
[57] For references, see n. 66 below.
[58] For this expression see, for example, al-Shāfiʿī, Umm, vol. vii, 214, l. 21.
[59] See the section entitled "Kitāb Ikhtilāf Mālik wa-l-Shāfiʿī" in al-Shāfiʿī,
Umm, vol. vii, 177-249.
[60] Ibn Bukayr's transmission was published under the title of Muwaṭṭa al-imām
al-mahdī by the Gouvernement Générale de l'Algérie (Algiers, 1323/1905). For a
discussion of this transmission in general and the attribution of the printed text to
Ibn Bukayr, see Joseph Schacht, "Deux éditions inconnues du Muwaṭṭaʾ," in Studi
Orientalistici in Onore di Giorgio Levi Della Vida (Rome: Istituto per l'Oriente,
1956), vol. ii, 483-92; idem, "On Some Manuscripts in the Libraries of Morocco,"
Hespéris Tamuda, vol. ix (1968), 31-33.
[61] Fragments of Ibn al-Qāsim's transmission exist in manuscript form in Tunis
and Qayrawān (see Muw. Ibn Ziyād, Introduction, 69; Schacht, "Manuscripts in
Kairouan," 228-30), while all the musnad ḥadīths from this transmission as
collected by al-Qābisī in his Mulakhkhaṣ (or Mulakhkhiṣ) have been published under
the title Muwaṭṭaʾ al-Imām Mālik ibn Anas, riwāyat Ibn al-Qāsim wa-talkhīṣ al-
Qābisī, ed. Muḥammad b. ʿAlawī b. ʿAbbās al-Mālikī (2nd ed., Jeddah: Dār al-
Shurūq, 1408/1988).
[62] There is an incomplete, but substantial portion of the transmission of Abū
Saʿīd al-Ḥadathānī in the Ẓāhiriyya Library in Damascus (see Schacht, "Deux
éditions," 478ff).

Zuhrī (d. 242/856)[63] and, possibly, Ibn Wahb (d. 197/812).[64] Since in the latter part of his life Ibn Ziyād was in Tunis, Yaḥyā in Cordoba, al-Shaybānī in various parts of Iraq, Syria and Khurāsān, al-Qaʿnabī in Basra (or perhaps Makka),[65] Ibn Bukayr, Ibn al-Qāsim, Ibn Wahb and al-Shāfiʿī—if we include these last two—in Egypt, Abū Saʿīd in Iraq (al-Ḥadītha), and Abū Muṣʿab in Madina, the only common link from which their transmissions could reasonably have derived is precisely that which is claimed in the sources to be the case, i.e. Mālik in Madina.

Fourthly, we have the secondary evidence of the biographical litera-ture which tells us of numerous individuals transmitting the Muwaṭṭaʾ directly from Mālik,[66] and also of several commentaries being written on it before Calder's proposed date of c. 270 for the book's emergence,

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63   Various portions of the transmission of Abū Muṣʿab al-Zuhrī exist in manuscript form in Tunis (see Muw. Q., 15), Qayrawān (see Schacht, "Manuscripts in Kairouan," 242-44; idem, "On Abū Muṣʿab and his Mukhtaṣar," Andalus, vol. xxx [1965], 7), Damascus (see Fuat Sezgin, Geschichte des arabischen Schrifttums, vol. 1 [Leiden: E.J. Brill, 1967], 460) and Dublin (Chester Beatty MS 5498/3, entitled al-Muntaqā min al-Muwaṭṭaʾ [Sezgin, GAS, vol. i, 464], which consists of ḥadīths from the Muwaṭṭaʾ according to the transmission of Abū Muṣʿab).

64   The recently published fragment of Ibn Wahb's "Muwaṭṭaʾ" (see ʿAbdallāh b. Wahb, al-Muwaṭṭaʾ: Kitāb al-muḥāraba, ed. Miklos Muranyi [Wiesbaden: Otto Harrassowitz, 1992]; also, for the original manuscript, Schacht, "On Some Manu-scripts in Kairouan," 230-31) represents a text which is far more than just another transmission of the Muwaṭṭaʾ. As well as containing distinctively "Muwattan" material—such as reports containing expressions relating to Madinan ʿamal (e.g. Arabic text, 47-48, fol. 18r. 15-21 [= Muw. vol. ii, 188])—it also contains extensive material now recorded specifically in either the Mudawwana (e.g. Arabic text, 49-50, fol. 6r. 24 - fol. 7r. 10 [= Mud. vol. iii, 4], fol. 7r. 15 - 7v. 4 [= Mud. vol. iii, 4-5], et passim) or the ʿUtbiyya (e.g. Arabic text, 15, fol. 6r. 22 - 6v. 9 [= Bayān, vol. xvi, 373]). Indeed, much of the material is closer textually to the Mudawwana than to the Muwaṭṭaʾ (e.g. Arabic text, 25, fol. 10r. 7-10 [= Mud. vol. iii, 50; cf. Muw. vol. ii, 208], and 51, fol. 19v. 7-11 [= Mud. vol. xvi, 166; cf. Muw. vol. ii, 188]). However, whatever we care to call Ibn Wahb's book, it clearly confirms a second- rather than third-century origin for the basic material in the Muwaṭṭaʾ, Mudawwana and ʿUtbiyya. (Nor does it exclude the possibility that he also transmitted the Muwaṭṭaʾ in a form more recognisably similar to that of the other transmissions that we know.)

65   Al-Qaʿnabī settled in Basra and died either there or, according to some reports, in or on the way to Makka (see ʿIyāḍ, Madārik, vol. i, 397-99; Ibn Ḥajar, Tahdhīb al-tahdhīb [Hyderabad: Dāʾirat al-Maʿārif, 1325-27 (1907-09)], vol. vi, 31-33).

66   Muranyi, for instance, lists seventy-nine transmitters of the Muwaṭṭaʾ from Mālik (see Miklos Muranyi, Materialien zur Mālikitischen Rechtsliteratur [Wies-baden: Otto Harrassowitz, 1984], 127-30). A collation of these names with those given by al-Zurqānī (Sharḥ, vol. i, 6), ʿIyāḍ (Mad. vol i, 203), al-Suyūṭī (Tanwīr, vol. i, 8-9), ʿAbd al-Bāqī (Mālik, al-Muwaṭṭaʾ, ed. Muḥammad Fuʾād ʿAbd al-Bāqī [Cairo: Dār Iḥyāʾ al-Kutub al-ʿArabiyya, 1370/1951], 7) and al-Nayfar (Muw. Ibn Ziyād, 80-82) results in a total of at least ninety-three named persons known to have transmitted the Muwaṭṭaʾ from Mālik.

e.g. those of al-Akhfash (d. before 250/864)[67] and Ibn Muzayn (d. *c.* 259/873)—this latter itself compiled from the commentaries of 'Īsā b. Dīnār (d. 212/827), Yaḥyā b. Yaḥyā al-Laythī (d. 234/849), Muḥammad b. 'Īsā (d. 221/836 or 222/837) and Aṣbagh b. al-Faraj (d. 225/840)[68]—not to mention those of Ibn Nāfi' (d. 186/802), Ibn Wahb (d. 197/812)—of which an early parchment fragment, dated 293 AH and transmitted by an unknown scribe from Yaḥyā b. 'Awn (d. 298/910-11) from 'Awn b. Yūsuf (d. 239/853) from Ibn Wahb, survives[69]—and others.[70] These transmissions and commentaries would not of course have been possible had the text not existed.[71]

Given then that the earliest of three early works mentioned above is that of Mālik, we shall concentrate on Mālik's view on this question of *sadl* versus *qabḍ* as reflected in the seemingly contradictory reports transmitted from him in the *Muwaṭṭa'* and the *Mudawwana*. We shall then consider the implications of this for a clearer understanding of the development in Islamic legal theory that led to the appearance of the Prophet-only *ḥadīth* collections such as those of al-Bukhārī and Muslim and the effective "de-throning" of books such as the *Muwaṭṭa'*—which al-Shāfi'ī had once considered to be the most accurate book on the face of the earth after the Qur'ān[72]—in their favor.

Mālik and the Muwaṭṭa'

Firstly, it should be noted that the *Muwaṭṭa'* is not simply a book of *ḥadīth*, even if that word is defined broadly to include reports from Companions and even Successors as well as from the Prophet. It is, rather, a book of *'amal* ("practice," but not, as we shall see, simply "local practice") or, to be more precise, a book of *ḥadīth* put into the context of *'amal*. That is, the book is ostensibly a record of various types of *ḥadīth*, but the key phrases in it are not so much those in the actual *ḥadīth*s—which may be at variance with one another—as those

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[67] See 'Iyāḍ, *Madārik*, vol. i, 200; Schacht, "Some Manuscripts in Kairouan," 244-45; Sezgin, *GAS*, vol. i, 460.

[68] See 'Iyāḍ, *Madārik*, vol. i, 200; Schacht, "Some Manuscripts in Kairouan," 235-37; Sezgin, *GAS*, vol. i, 460.

[69] See 'Abdallāh b. Wahb, *Kitāb al-muḥāraba*, 54.

[70] See 'Iyāḍ, *Madārik*, vol. i, 200, 357 (Ibn Nāfi'), 433 (Ibn Wahb).

[71] For a more extensive critique of Calder's thesis, the reader is referred to my review of his *Studies in Early Muslim Jurisprudence* in *Journal of Islamic Studies*, vol. v (1994), 102-08.

[72] See Mālik, *al-Muwaṭṭa'*, ed. 'Abd al-Bāqī, Introduction, i; Ibn Abī Ḥātim, *Taqdimat al-ma'rifa li-kitāb al-jarḥ wa'l-ta'dīl* (Hyderabad: Dā'irat al-Ma'ārif, 1371/1952), 12.

in which Mālik sums up a point by saying *al-sunna ʿindanā* ("the *sunna* here"), or *al-sunna allatī lā ikhtilāfa fīhā ʿindanā* ("the *sunna* about which there is no dispute here"), or *al-amr ʿindanā* ("the practice here"), or *al-amr al-mujtamaʿ ʿalayhi ʿindanā* ("the agreed practice here"), or *al-amr alladhī lā ikhtilāfa fihi ʿindanā* ("the practice about which there is no dispute here"), or some such phrase. In other words, there may be different, conflicting reports on a subject, but what should be done in any one case is what is, or was, done in Madina.[73]

Secondly, it is important to recognise Mālik's high reputation for excellence and accuracy in *ḥadīth*-transmission, indeed in the transmission of knowledge in general. He was a past-master at the formal report and is praised as such by all the major scholars of *ḥadīth*.[74] Indeed, the *isnād* "Mālik-Nāfiʿ-Ibn ʿUmar," for instance, is considered by al-Bukhārī and others to be the "golden chain" of authority (*silsilat al-dhahab*).[75] However, as is implicit in the first point, it is not the formal report that primarily concerns him but rather the *fiqh*, or correct understanding (to use the word in its original sense), of such reports.

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[73] It should be briefly noted here that *ʿamal* as used in this context is understood to derive from the time of the Prophet (the "*sunna*" element), along with an additional element of *ijtihād*, "independent judgment," from later authorities (implicit in the term "*amr*"). For a fuller discussion of the different terms used by Mālik to distinguish different categories of *ʿamal*, and the nature and authority of Madinan *ʿamal* in general, the reader is referred to my article, "Sunna, Ḥadīth and Madinan *ʿAmal*," *Journal of Islamic Studies*, vol. iv (1993), esp. 7-10, 13-14.

[74] For praise of Mālik by later scholars it is sufficient to look at any of the entries on him in the main biographical works, e.g. Ibn Abī Ḥātim, *Taqdima*, 11-25, 30-31; Abū Nuʿaym, *Ḥilyat al-awliyāʾ* (Cairo: Maṭbaʿat al-Saʿāda, 1351-57/1932-38), vol. vi, 316-32; al-Dhahabī, *Tadhkirat al-ḥuffāẓ* (Hyderabad: Dāʾirat al-Maʿārif, 1375-77/1955-58), vol. i, 189-92; Ibn Ḥajar, *Tahdhīb*, vol. x, 5-9. It is interesting to note that one modern scholar who has worked intensively on *ḥadīth* confirms this judgment on Mālik, coming to the conclusion that *ḥadīth*s narrated through Mālik are not only highly consistent but "outstanding in their uniformity" (see Iftikhar Zaman, "The Science of *Rijāl* as a Method in the Study of Hadiths," *Journal of Islamic Studies*, vol. v [1994], 3, 11, 18).

[75] See, for example, al-Nawawī, *Tahdhīb al-asmāʾ*, ed. Ferdinand Wüstenfeld (Göttingen: London Society for the Publication of Oriental Texts, 1842-47), 531; Ibn Khallikān, *Wafayāt al-aʿyān* (Cairo: Maṭbaʿat Būlāq, 1299 [1882]), vol. ii, 198; al-Dhahabī, *Siyar aʿlām al-nubalāʾ* (Beirut: Muʾassasat al-Risāla, 1401-09/1981-88), vol. viii, 102; Ibn Ḥajar, *Tahdhīb*, vol. x, 6. Schacht's criticism of this *isnād* (*Origins*, 176-79) has in turn been criticized by, among others, James Robson ("The *Isnād* in Muslim Tradition," *Transactions of the Glasgow Oriental Society*, vol. xv [1954; published 1955], 22-23) and Muhammad Mustafa Azmi (*Studies in Early Hadith Literature* [Beirut: al-Maktab al-Islāmī, 1388/1968], 244-46; idem, *On Schacht's Origins of Muhammadan Jurisprudence* [Riyadh, New York &c: King Saud University, John Wiley & Sons, 1985], 171). A recent article by Juynboll also casts doubt—to my mind unconvincingly—on the historicity of this *isnād* but, interestingly, finds fault with Schacht's criticism (see Gautier H.A. Juynboll, "Nāfiʿ, the *mawlā* of Ibn ʿUmar," *Der Islam*, vol. xx [1993], esp. 217, n. 7).

Accuracy of transmission is only one requirement: what is more important is an accurate understanding of the material.

Mālik combined both these qualities. He was described by Aḥmad b. Ḥanbal as "an *imām* in *ḥadīth* and *fiqh*,"[76] while the famous *ḥadīth* scholar Ibn Mahdī expressed the idea very clearly when he said: "Al-Thawrī is an *imām* in *ḥadīth* but not an *imām* in *sunna*. Al-Awzāʿī is an *imām* in *sunna* but not an *imām* in *ḥadīth*. Mālik, however, is an *imām* in both."[77] Being an *imām* in both meant, firstly, that he knew the context in which to evaluate the normative value of *ḥadīths*; secondly, that he knew the opinions of his predecessors arising from, but not necessarily covered by, those *ḥadīths*; and thirdly, that he knew how to derive his own secondary judgments from this primary material. That is, he had an understanding (*fiqh*) of the *dīn* and its normative form (*sunna*). Without this understanding, *ḥadīths*, however authentic, could easily be a source of misguidance and error rather than a source of knowledge and enlightenment. Thus Ibn Wahb is recorded as saying, "Anyone who knows a *ḥadīth* but does not have an *imām* in *fiqh* is astray (*ḍāll*); and if Allah had not saved us through Mālik and al-Layth we would have gone astray";[78] and Ibn ʿUyayna is recorded as saying, "*Ḥadīth*s are a source of misguidance (*maḍilla*) except for the *fuqahāʾ*."[79]

If, therefore, Mālik records a *ḥadīth* and then gives a judgment seemingly to the contrary, we have to assume that there was a good reason for him doing so.

What could that reason be?

A very significant statement is recorded about Mālik on this point. ʿIyāḍ records that both Ibn al-Qāsim and Ibn Wahb said, "I saw that with Mālik *ʿamal* was stronger than *ḥadīth*."[80] Now, what does this mean—about Mālik, the past-master at relating *ḥadīth*, and the man

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[76] See ʿIyāḍ, *Madārik*, vol. i, 132; al-Dhahabī, *Siyar*, vol. viii, 84.

[77] See Abū Nuʿaym, *Ḥilya*, vol. vi, 332; ʿIyāḍ, *Madārik*, vol. i, 132; also Ignaz Goldziher, *Muhammedanische Studien* (Halle: Max Niemeyer, 1889-90), vol. ii, 12.

[78] Ibn Abī Zayd al-Qayrawānī, *Kitāb al-Jāmiʿ* (Beirut, Tunis: Muʾassasat al-Risāla, al-Maktakba al-ʿAtīqa, 1402/1982), 119; cf. Ibn ʿAbd al-Barr, *al-Intiqāʾ fī faḍāʾil al-aʾimma al-thalātha al-fuqahāʾ* (Maktabat al-Qudsī, 1350 [1931]), 31.

[79] Ibn Abī Zayd, *Jāmiʿ*, 118.

[80] ʿIyāḍ, *Madārik*, vol. i, 66; Robert Brunschvig, "Polémiques médiévales autour du rite de Mālik," *Andalus*, vol. xv (1950), 418. For similar comments by Mālik, see Ibn Abī Zayd, *Jāmiʿ*, 117; ʿIyāḍ, *Madārik*, vol. i, 224; Muḥammad ʿĀbid, *Qawl*, 22 (quoting the *Bayān* of Ibn Rushd, the *Madkhal* of Ibn al-Ḥājj and the *Jāmiʿ* of Abū Yūnus); also the report from Muḥammad b. Abī Bakr in the citation from ʿIyāḍ in the following paragraph.

whose commitment and accuracy in the transmission of *ḥadīth* are second to none?

Let us consider two more reports about the subject. 'Iyāḍ continues:[81]

> Mālik said: "There were people among the men of knowledge of the Successors who would narrate certain *ḥadīth*s and hear other *ḥadīth*s from others. They would say, 'We are not ignorant of this, but the *'amal* that has come down to us is different.'"[82]

> Mālik said: "I once saw Muḥammad b. Abū Bakr b. Ḥazm—who was a *qāḍī*—being reproached by his brother 'Abdallāh—who was an honest man with an extensive knowledge of *ḥadīth*—for giving a judgment on a case when there was a *ḥadīth* giving a different judgment. 'Abdallāh said, 'Hasn't such-and-such a *ḥadīth* come down about this?' Muḥammad replied, 'It has.' 'Abdallāh said, 'Then why don't you give your judgment according to it?' Muḥammad replied, 'But what is the position of the people with regard to it?'—i.e. [what is] the agreed *'amal* in Madina, by which he meant that the *'amal* of Madina was stronger than *ḥadīth*."[83]

Again, why should this be so? What does this mean?

It means, quite simply, that Mālik saw *'amal* as a better indicator of *sunna* than *ḥadīth*. As Rabī'a, one of Mālik's main teachers, is recorded to have said, "One thousand from one thousand is preferable to me than one from one. One from one would tear the *sunna* right out of your hands."[84] "One thousand from one thousand" means a large number of Successors taking from a large number of Companions, which was only possible in Madina, and implies a transmission that was primarily by practice (*'amal*) rather than by text (*ḥadīth*). "One from one," on the other hand, was the situation in the rest of the Muslim world where individual Successors took their knowledge from individual Companions, and on a more overtly textual basis. ("Textual" here does not necessarily mean "documented in written form" so much

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[81] See 'Iyāḍ, *Madārik*, vol. i, 66; Brunschvig, "Polemiques," 418.

[82] This report is also transmitted in the *'Utbiyya* (see Ibn Rushd, *Bayān*, vol. xvii, 604; also Schacht, "On Some Manuscripts in Morocco," 29) and in Ibn Abī Zayd's *Jāmi'* (118).

[83] For the same report, with slight variations, see Ibn Rushd, *Bayān*, vol. xvii, 331; al-Ṭabarī, *Tārīkh al-rusul wa'l-mulūk*, ed. Michiel Johannes de Goeje *et al.* (Leiden: E.J. Brill, 1879-1901), vol. iii, 2505 (mentioned in Schacht's *Origins*, 64); Wakī', *Akhbār al-quḍāt*, ed. 'Abd al-'Azīz Muṣṭafā Marāghī (Cairo: Maṭba'at al-Istiqāma, 1366/1947), vol. i, 176; Ibn Abī Zayd, *Jāmi'*, 118. For variants in the *Madārik* report itself, see 'Iyāḍ, *Madārik*, ed. Muḥammad Tāwīt al-Ṭanjī *et al.* (2nd ed., Mohammedia: Wizārat al-Awqāf wa'l-Shu'ūn al-Islāmiyya, 1402-03/1982-83), vol. i, 45.

[84] See 'Iyāḍ, *Madārik*, vol. i, 66; Brunschvig, "Polémiques," 419.

as "transmitted in a fixed, linguistic form," such as is the case, for instance, with the "text" of the Qur'an.) Thus this 'amal of the Madinans—this "one thousand from one thousand" knowledge of how the sharī'a was put into practice—automatically had in their view a higher authority than most ḥadīths, since 'amal had the status of being mutawātir, that is, transmitted by so many Companions that there could be no reasonable doubt about its authenticity, whereas most ḥadīths were not mutawātir but akhbār al-āḥād, that is, reports only from individual authorities.

It should, however, be emphasised that 'amal and ḥadīth are by no means mutually exclusive. Rather, 'amal may or may not be recorded by ḥadīth, and ḥadīth may or may not record 'amal. Where they overlap they are a strong confirmation of each other, but where there is a contradiction 'amal is preferred to ḥadīth by Mālik and the Madinans, even when the sources of these ḥadīth are completely trustworthy.

It is for this reason that sadl is preferred to qabḍ by Mālik and the Madinans,[85] even though, as we have seen, there are numerous ḥadīths to the contrary in the major collections and nothing in them that overtly contradicts this position. This way of standing for the prayer with one's hands by one's sides, as also the standard way of doing the adhān in Madina, or the way of reciting the Fātiḥa in the prayer without beginning with bi-smi'llāhi 'l-raḥmāni 'l-raḥīm, or the size of the measures known as ṣā' and mudd, to name but a few other examples, were matters that were not initially recorded in the form of ḥadīth but were nevertheless generally known amongst the people and understood to have originated as sunna in the time of the Prophet.[86] Other practices, although recorded in authentic ḥadīths and even transmitted, for example, in the Muwaṭṭa', were not acted upon precisely because they did

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[85] For exceptions to this generalised statement about "Mālik and the Madinans," see the opinions noted in n. 4 above, especially the view recorded from Muṭarrif and Ibn al-Mājishūn—two Madinan followers of Mālik—that the preferred way is qabḍ. However, despite their being in Madina, it is never claimed that these two authorities had the best knowledge of Mālik's opinions, which is considered rather to be the especial preserve of his Egyptian followers, particularly Ibn al-Qāsim (see above, n. 4). It is also evident from the argument for 'amal outlined above that Mālik would not have preferred sadl unless it were the practice of at least a large number of the 'ulamā' of Madina at and before his time (of whom the famous Madinan Successor and faqīh Sa'īd b. al-Musayyab would have been one; see above, p. 27).

[86] It may be noted here that the ḥadīth recording the Madinan way of doing the adhān in Mud. vol. i, 57, has a Makkan isnād, while the ḥadīth about beginning the prayer without the basmala (Muw. vol. i, 78; Mud. vol. i, 67) has a Basran isnād. In other words, there were no ḥadīths on these subjects in Madina because there was no need for them.

not represent the *sunna*. In other words, they were either exceptional instances, or earlier judgments that had later been changed, or otherwise minority opinions that held little weight and which, even though they derived from the Prophet, were nevertheless outweighed by other judgments also deriving from the Prophet. This was why Ibn 'Uyayna could say that *hadīth*s were a source of misguidance except for the *fuqahā*ʾ, and Mālik that *'amal* was more reliable than *hadīth*.[87]

It is here that we can also see the significance of the Shī'a/Khawārij agreement on *sadl*. These groups split away from the main body of the Muslims at a very early date and on questions of belief and political authority rather than on details of *fiqh*. Their agreement on *sadl* is thus strong confirmation of the "ancient," indeed Prophetic, origin of this *'amal*, since there would have been no reason for them to invent such a detail. The obvious inference is that they were merely continuing an already established practice.

The implications of this are far-reaching. Firstly, it means that, like the modern, revisionist school of Western scholarship represented by Schacht and his followers, we must seriously question the view of "*sunna* equals [Prophetic] *hadīth*" that is taken by the average Muslim scholar today, and has been taken by most since somewhere in the middle of the third century AH. However, unlike the revisionists, the above critique does not enable us to discard the vast majority of *hadīth* as a belated attempt to give authority to what was originally local practice. The *hadīth* literature (albeit in a predominantly oral form) existed—Mālik's *Muwaṭṭaʾ* is ample testimony to that—but it was subservient to *'amal*. What we see happening in the burgeoning of the *hadīth* collections of the third century is a response to this redefinition of *sunna* within the ranks of the *'ulamāʾ* and the concomitant creation of a Prophetic-*hadīth* imperative. Once *fiqh* became based on Prophetic *hadīth* rather than Prophetic *sunna*, it was a natural and necessary step to seek to collect everything one could by way of a *hadīth* from the Prophet, even if perhaps a little "weak,"[88] and at the same time discard, or disregard, the material from later, post-Prophetic authorities: hence the highly "edited" nature of all the major third century collections of *hadīth*.

As for the *'amal*, or practice, of Madina being local, it was indeed local in that it originated, flourished and was first recorded in Madina

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87 See above, pp. 35-36.
88 Ibn Ḥanbal, for example, is known for preferring a weak *hadīth* to no *hadīth* at all (see 'Iyāḍ, *Madārik*, vol. i, 96).

rather than anywhere else, but that was because the *sunna* of the Prophet originated, flourished and was first recorded in Madina rather than anywhere else. No other city in the Muslim world ever claimed the same authority for its own *'amal* as did the Madinans (to the extent, that is, that any other city could be said to have had its own *'amal*). Rather, there was Madina, the center of the Prophetic phenomenon, and there were individuals who went out from it. There was "one thousand from one thousand" in Madina, and there was "one from one" everywhere else. However, with the advent of the work of those such as al-Shāfi'ī (d. 204/820) who, in the face of wide disagreement on details among the *fuqahā'* of his time, wanted to impose some sort of logical standard on the entire corpus of *fiqh*, the traditional, non-textual argument of *'amal* was subjected to the logical standards of textual, particularly *isnād*-, criticism. Thus *sunna*, which had once been contained in Madinan *'amal* (Mālik's "*al-sunna 'indanā*" and "*al-sunna allatī lā ikhtilāfa fīhā 'indanā*") became redefined as Prophetic *hadīth*, and the anonymous, no-*isnād* nature of the authority underlying *'amal* was rejected in the face of the demands of the new scholarship for an authentic *isnād* in which every man had to be known and trustworthy. "Who are these people," al-Shāfi'ī effectively asks, "because of whose *'amal* these *hadīth*s are not acted upon?",[89] thus putting his own position and that of those like him very clearly. Indeed, one would agree with Schacht that it is al-Shāfi'ī, with his insistence that only those rulings backed up by good *textual* credentials should be accepted as the basis of the *sharī'a*, who should be considered responsible for, or at least at the forefront of, the widespread acceptance of the idea that

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[89]   E.g al-Shāfi'ī, *Umm*, vol. vii, 214 (l. 31): *fa-'amal man ta'nī tukhālifu bihi sunnat rasūli-llāh* ... ("Whose *'amal* is it by whose authority you go against the *sunna* of the Messenger of Allah ...?"); ibid., vol. vii, 217 (margin): *fa-qad a'yānā an najida 'inda ahad 'ilm hā'ulā'i alladhīna idhā 'amilū bi'l-hadīth thabata 'indahu wa-idhā tarakū al-'amal bihi saqaṭa 'indahu ... fa-yā layta shi'rī man hā'ulā'i alladhīna lam a'lamhum khuliqū thumma yuhtajju bi-tarkihim al-'amal wa-ghaflatihim* ("We have failed to find anyone who has the knowledge [i.e. presumably, of texts] of these people, such that if they have acted according to a *hadīth*, he will consider it reliable, but if they have not acted according to it, he will reject it ... If only I knew who these people were who I do not even know to have been born but whose lack of *'amal* and unawareness [i.e. presumably, ignorance of, or refusal to consider, a *hadīth*] is used as an authoritative argument!"). For the same attitude in the Iraqi scholar Abū Yūsuf (d. 182/798), see, for example, ibid., vol. vii, 311 (l. 28): *fa-man al-imām alladhī 'amila bi-hādhā wa'l-'ilm alladhī akhadha bihi hattā nanẓura a-huwa ahl li-an yuhmala 'anhu ma'mūn 'alā al-'ilm aw lā* ("Who then is the authority who acted in this way, and [what is] the knowledge [i.e. *hadīth*] that he based it upon, so that we can judge whether he is a suitably qualified and trustworthy transmitter of knowledge or not?").

"*sunna* equals *hadīth*," although one would also agree with Schacht that the tendency seems to have begun in Iraq.[90]

What we thus see illustrated by the major third century collections of *hadīth* in their almost total reliance on Prophetic material to the exclusion of any other, and what we see reflected in the rejection of *sadl* for *qabd* by the later Sunnī *madhhab*s (and several later Mālikīs) is the rejection of *sunna* as transmitted by *'amal* in favor of *sunna* as transmitted by *hadīth*. In both cases this *sunna* was understood as being the *sunna* of the Prophet. What differed was the methodology by which such knowledge was arrived at, and thus the details of its practical expression, namely, the differences in the details of *fiqh*. The rejection of *'amal* in favor of *hadīth* was the triumph of the methodology of "one from one" over that of "one thousand from one thousand" and, as the report from Rabī'a continues, "One from one would tear the *sunna* right out of your hands." This suggests that if we want to arrive at a clearer picture of the original "*sunna* of the Prophet," we would do better to look at Madinan *'amal* than at the classical collections of *hadīth*.

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[90] See Schacht, *Origins*, 58, 59, 77, 80, where the shift in definition of the word *sunna* evident from al-Shāfi'ī's writings is most forcefully noted. (This indeed I consider the strongest point in Schacht's critique. What I disagree with is his understanding of what *sunna* meant *before* it became redefined as *hadīth*.) For this shift happening *via* Iraq, see, for example, Zafar Ishaq Ansari, "The Early Development of Islamic Fiqh in Kufa" (unpublished Ph.D. thesis, McGill University, 1968), *passim*, esp. 14, 23-24, 176, 212, 234, 243, 250, 370, 377, 381; also *Origins*, 73, 77, 80, 223, where Schacht argues that Islamic jurisprudence—which one can see as the formalisation of *'amal*—began in Iraq. Note also the attitude expressed in Abū Yūsuf's comment in n. 89 above.